UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,006	11/21/2001	Richard Gillett	STGN-P01-001	3449

28120 7590 07/09/2004	**EXAMINER**
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ART UNIT	PAPER NUMBER
2141	4

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.		Applicant(s)
Office Action Summary	09/991,006		GILLETT ET AL.
	Examiner		Art Unit
	Kenneth R Coulter		2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>21 November 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date <u>4/7/2003</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Objections

1.   Claims 11, 16 - 18, and 23 are objected to because of the following informalities:

no period at the end of sentence (claim 5, line 3);

"URL.**pathname.**" (extraneous data) (claim 11, line 2);

no period at the end of a sentence (claim 16, line 2);

"buffer space, and   " (missing text and no period) (claim 23, line 3).

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1 – 24 are rejected under 35 U.S.C. 102(e) as being anticipated by

Lumelsky et al. (U.S. Pat. No. 6,460,082) (Management of Service-Oriented Resources

Across heterogeneous Media Servers Using Homogeneous Service Units and Service

Signatures to Configure the Media Servers).

3.1   Regarding claim 1, <u>Lumelsky</u> discloses a system for delivering content over a

data network, comprising:

    a data storage device for storing content to be delivered over the data network

(Figs. 1, 2, 4, 5, 6);

    a server process capable of monitoring the data network for responding to a

request to serve selected content over the data network (Fig. 5; col. 11, lines 39 – 46);

and

    a file system capable of communicating with the server process and capable of

processing the request to identify meta-data associated with the selected content and

being representative of a level of service to be provided with the selected content (Fig.

2, item 152; col. 7, lines 28 - 49).

3.2   Per claim 2, <u>Lumelsky</u> teaches a service level manager capable of determining,

as a function of the meta-data, whether the selected content may be serviced in

compliance with the associated level of service (Abstract; Fig. 2; col. 7, lines 28 - 49).

3.3   Regarding claim 3, <u>Lumelsky</u> discloses that the server process includes a

process for directing the request to the service level manager (Fig. 5; col. 11, lines 39 –

46).

3.4   Per claim 4, Lumelsky teaches that the request analyzer process includes a

request analyzer process for analyzing the request to identify information associated

with a level of service to provide the request (Fig. 2; col. 7, lines 28 - 53).

3.5   Regarding claim 5, Lumelsky discloses that the request analyzer process

includes means for identifying information selected from the group consisting of user

identification, user ISP identification, transmission throughput, client, and CDN server

identification (Fig. 2; col. 7, lines 28 - 40).

3.6   Per claim 6, Lumelsky does not explicitly teach that the service level manager

includes a process for directing the server process to employ a file open process for

requesting the file system to access data associated with the selected content.

However, a file open process in inherent in Lumelsky in order for databases to be

accessed.

3.7   Regarding claim 7, Lumelsky discloses a representation of the level of service to

provide the request (Fig. 2; col. 7, lines 28 - 51).

3.8   Per claim 8, the rejection of claims 6 and 7 under 35 USC 102(e) (paragraphs 3.6

and 3.7 above) applies fully.

3.9   Regarding claims 9 – 11, Lumelsky discloses a service level manager that

associated with a level of service to provide (Abstract; Figs. 2, 4; col. 7, lines 28 - 51);

embeds into a pathname, service level information to be associated with the selected

content (Abstract; Figs. 2, 4; col. 7, lines 28 - 51)

3.10   Per claims 12 and 13, Lumelsky teaches that the file system includes parsing a

pathname associated with the selected content to identify a level of service to provide to

the request content (Abstract; Figs. 2, 4; col. 7, lines 28 - 51); a process for associating

the selected content with one of a plurality of different service levels (Abstract; Figs. 2,

4; col. 7, lines 28 - 51).

3.11   Regarding claims 14 – 18, Lumelsky discloses a scheduling process for

generating a schedule for servicing the requested content (Fig. 3b; col. 8, line 59 – col.

9, line 9; col. 16, lines 10 - 18); an admission process for employing the schedule to

determine whether the request for selected content can be accommodated at the level

of service associated with the request (col. 7, lines 28 – 67; col. 2, lines 54 - 66); a

deadline parameter representative of a time constraint for processing the request (Fig.

3b; col. 8, line 59 – col. 9, line 9; col. 16, lines 10 - 37); deadline parameter to generate

the schedule for servicing the request (Fig. 3b; col. 8, line 59 – col. 9, line 9; col. 16,

lines 10 - 37).

3.12   Per claim 19, <u>Lumelsky</u> teaches a slack-time process for arbitrating between scheduling requirements of content having different priorities of service levels (Fig. 3b; col. 8, line 59 – col. 9, line 9; col. 14, lines 53 – 57; col. 16, lines 10 - 16).

3.13   Regarding claim 20, <u>Lumelsky</u> discloses a control process for managing a system resource for controlling a rate at which service are provided (Abstract; Figs. 2, 5).

3.14   Per claim 21, <u>Lumelsky</u> teaches that the control process manages a system resource selected from the group of data storage, system memory, processor resources, and network throughput (Fig. 5; col. 7, lines 28 – 32; col. 4, lines 30 - 39).

3.15   Regarding claim 22, the rejection of claim 1 under 35 USC 102(e) (paragraph 3.1 above) applies fully.

3.16   Per claim 23, <u>Lumelsky</u> teaches that controlling access to a system resource includes controlling access to a system resource selected from the group consisting of processor time, system memory, disk access, network bandwidth, and buffer space (Fig. 5; col. 7, lines 28 – 32; col. 4, lines 30 - 39).

3.17   Regarding claim 24, <u>Lumelsky</u> discloses controlling access includes selecting a priority for a thread processing the stream of selected content (col. 16, lines 10 – 21).

4.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R Coulter whose telephone number is 703 305-8447. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER
PRIMARY EXAMINER

krc